

PATENT

Docket No. HM-386-CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Senior Attorney: Paul Shanoski
Applicant: Horst Grafe, et al.
Serial No: 10/749,188
Filed: December 30, 2003
For: HIGH-SPEED SHEAR FOR TRANSVERSELY CUTTING
ROLLED STRIP
Examiner: Jason D. Prone
Art Unit: 3724
Confirmation No.: 9891

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

RENEWED PETITION PURSUANT TO 37 CFR 1.137(b)

S I R:

In response to the Decision on Petition mailed August 11, 2011, Applicants hereby petition to withdraw the holding of abandonment of the above-identified application.

The application became abandoned for failure to submit a response to the non-final Office Action mailed June 8, 2005.

On December 8, 2005, an Amendment in response to the Office Action of June 8, 2005 was mailed by first class mail. The Amendment included a Petition for three month extension of time with authorization for the fee in the amount of \$1020.00 to be charged to the deposit account no. 11-1835. The certificate of mailing is indicated on page 12 of the Amendment with the mailing date of December 8, 2005.

On December 12, 2005, according to the Image File Wrapper of the above-identified application, the Amendment was received in the USPTO. However, at that time, the funds in deposit account no. 11-1835 were insufficient and since the petition for three month extension was not accepted on December 12, 2005, and the maximum period of six months from the mailing date of the Office Action had expired and obtaining further extensions was not possible, the application became abandoned for failure to file a response prior to the expiration of the maximum extendable period for reply.

The Applicant states that by filing a timely Amendment which included the necessary three month extension of time, this application was not intentionally abandoned. The insufficient balance of funds contained in deposit account no. 11-1835 was also unintentional.

Submitted herewith are statements from Friedrich Kueffner and Matthew Lingley, in which they will explain in more detail that the extended inaction was unintentional.

The firm of Lucas & Mercanti, LLP took over the day to day operations of Mr. Kueffner in July 2010, and at that time we were not aware of the status of the present application. Lucas & Mercanti, LLP only became aware of the abandonment when correspondence enclosing prior art for submission in the application was received on March 3, 2011. Upon receiving the correspondence Lucas & Mercanti, LLP determined that the application was abandoned and proceeded to locate the file. The file was eventually found to have been moved to off-site storage by Mr. Kueffner. Once the file was recovered, the original Petition to Revive was filed on July 19, 2011.


The entire delay from the abandonment of the application until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Accordingly, it is respectfully submitted that this petition should be granted

In the event that a petition fee is required, the Commissioner is authorized to charge such fee to Deposit Account No. 02-2275.

Respectfully submitted,


LUCAS & MERCANTI, LLP

By: 
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Dated: October 11, 2011

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this document is being electronically transmitted to the Commissioner for Patents via EFS-Web on October 11, 2011.

By: 
Klaus P. Stoffel, Reg. No. 31,668

Dated: October 11, 2011

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STATEMENT

S I R:

I, Friedrich Kueffner, hereby declare that:

I am registered to practice before the U.S. Patent and Trademark Office. My office was formerly located at 317 Madison Avenue, Suite 910, New York, New York 10017. Since July 2010, I have taken an "Of Counsel" position with Lucas & Mercanti, LLP.

On December 8, 2005, an Amendment, 3 replacement drawings and a three month extension of time was filed by first class mail in response to the Office Action dated March 8, 2005. The three month extension of time included an authorization for the Commissioner to charge the fee in the amount of \$1,020.00 to deposit account no. 11-1835.

According to the Image File Wrapper found in PAIR for the above-identified application, the Amendment, 3 replacement drawings and a three month extension of time were received in the USPTO on December 12, 2005.

On December 12, 2005, the funds in deposit account no. 11-1835 were insufficient to cover the extension of time fee in the amount of \$1,020.00. I was unaware that the balance of deposit account no. 11-1835 was insufficient to cover the fee due. Since the petition for three month extension was not accepted because of insufficient funds, the application became abandoned for failure to file a timely response prior to the expiration of the maximum extendable period for reply.

On December 22, 2005, I received a Notice Requiring Extension of Time Fee mailed December 19, 2005, which informed me that the funds in deposit account no. 11-1835 were insufficient to cover the entire extension of time fee due. The notice indicated that no new time period was provided. Since the maximum period of six months from the mailing date of the Office Action had expired and obtaining further extensions was not possible, I determined that the application was abandoned and a Petition to Revive had to be filed.

On March 27, 2006, I received a Notice of Abandonment mailed March 24, 2006. At that time, I gave the file of the application to my assistant, Matthew Lingley, with specific instructions to prepare a Petition to Revive. However, instead of docketing and preparing a Petition to Revive for filing, Mr. Lingley mistakenly sent the entire file to an off-site storage facility. It was my practice to send the files of all abandoned cases to the off-site storage facility. I was not aware that the file had been mistakenly sent to the off-site storage facility.

It is respectfully submitted that it is clear from the facts that the application was not intentionally abandoned.

In July 2010, Lucas & Mercanti, LLP took over my practice.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date October 11, 2011



Friedrich Kueffner

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Alexandria, VA 22313

STATEMENT

S I R:

I, Matthew Lingley, hereby declare that:

I was an assistant to Friedrich Kueffner from March 1995 to July 2010, who is registered to practice before the U.S. Patent and Trademark Office. Our office was located at 317 Madison Avenue, Suite 910, New York, New York 10017. I am currently employed at Lucas & Mercanti, LLP as the administrative assistant to Klaus P. Stoffel. Our office is located at 475 Park Avenue South, 15th Floor, New York, New York 10016.


On December 8, 2005, my responsibilities included handling all communications received from the USPTO once they had been entered in the logbook by Mr. Kueffner. Once I determined which communications required a response, they were then entered into the master docket calendar. It was also my duty to oversee the deposit account and maintain the funds to cover any fees in which the Commissioner had been authorized to charge.

On March 27, 2006, I received the entire file for docket no. HM-386-CIP with a Notice of Abandonment placed on top and instructed by Mr. Kueffner to prepare a Petition to Revive. It was my duty to enter a date into the master docket calendar for filing a Petition to Revive. Then it was my duty to prepare for filing any necessary documents associated with the Petition to Revive.

However, I mistakenly overlooked that a Petition to Revive needed to be prepared and filed and erroneously determined that the application was intentionally abandoned. At that time, I sent the entire file to our off-site storage facility and wrote the docket no. on a list containing all the files which are stored at the off-site storage facility, which was our customary practice once an application is intentionally abandoned. I declare that my mistaken determination was entirely unintentional.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date October 11, 2011


Matthew Lingley